LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

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FISCAL IMPACT STATEMENT

LS 6458 **DATE PREPARED:** Feb 26, 2002
BILL NUMBER: SB 71 **BILL AMENDED:** Feb 25, 2002

SUBJECT: Rest Breaks for Minors, Worker's Compensation, Job Sharing.

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FUNDS AFFECTED: X **GENERAL** **IMPACT:** State & Local
DEDICATED
FEDERAL

Summary of Legislation: (Amended) This bill changes the requirements for rest breaks for children who are employees. The bill provides that a child less than 18 years of age working between the hours of 10 p.m. and 6 a.m. must be accompanied during those hours by another employee at least 18 years of age if the establishment is open to the public. The bill also reduces worker's compensation to an employee by 15% for failure to use safety equipment or failure to obey certain rules of the employer (instead of denying compensation altogether). It also provides for 8% interest from the date of filing an application for an adjustment of claim concerning the payment of worker's compensation.

This bill also provides worker's compensation benefits to an employee who was traveling to or from or engaged in the duties of employment at the time of a terrorist attack and was injured or died as a result of the attack. The bill provides for changes to benefits due for worker's compensation, including the second injury fund, average weekly wage for a second injury or occupational disease, and disabled from trade compensation. The bill also raises the average weekly wage used to compute benefits for permanent partial impairment, temporary total disability, temporary partial disability, and total permanent disability, and benefit levels for degrees of permanent impairment. It also revises the maximum compensation under worker's compensation that may be paid for an injury, occupational disease, or death.

This bill also establishes the Second Injury Fund for occupational diseases. It raises the unemployment compensation maximum wage credits. It also establishes work sharing unemployment compensation benefits. The bill also repeals the one-week waiting period for unemployment compensation. The bill makes conforming amendments.

Effective Date: July 1, 2002.

Explanation of State Expenditures: (Revised) *Child Labor:* The changes in this bill could have a minimal administrative impact on the Department of Labor in so far as the Department is charged with overseeing employers' compliance with the state's labor laws. The Department of Labor employs four child labor inspectors.

Work Sharing Unemployment Compensation Benefits: The bill allows for the development of a job sharing plan by a business with the approval of the Department of Workforce Development. The plan would list the individuals involved in the job sharing, and the plan would be limited to a duration of not more than six months. During that time an individual could receive partial unemployment benefits. The benefit would equal the benefit the individual would be eligible for times the percentage reduction in working hours due to the job sharing. The fiscal impact is unknown. The bill would give businesses an option during economic slowdowns.

Elimination of One-Week Waiting Period: The elimination of the one-week waiting period for unemployment compensation will have an impact on the total amount of Unemployment Insurance Benefit Trust Fund benefits paid. For the period of October 2000 to September 2001, there were 122,000 claims that did not exhaust their benefits and the average weekly benefits were $236. Assuming the individuals would have received one additional week of benefits, the impact is estimated to be $28.8 M (($236*1 week)*122,000 claims).

Increase in Maximum Unemployment Benefits: The current earnings base used for the computation of weekly benefits is $7,900 per quarter for a maximum weekly benefit of $336 for FY 2003. The bill increases the earnings base to $8,500 per quarter and increases the maximum weekly benefit to $360, an increase of $24 (7.1%) for FY 2004.

This provision will impact the amount of benefits available to an individual from the Unemployment Benefit Trust Fund. Based on the amount paid in unemployment benefits in FY 2001, this bill would increase expenditures from the Unemployment Benefit Trust Fund by approximately $32.8 M in FY 2004.

Note: The Unemployment Benefit Trust Fund is funded by quarterly contributions made by employers. The amount of each employer's contribution is based on each employer's individual unemployment account history and the past year's statewide unemployment rate. Other factors, including benefits paid to former employees, voluntary payments made, and the partial selling and purchasing of other businesses by the employer also impact each employer's rate. The potential impact of the provisions of this bill will change as the state's economy changes. For example, if the state's unemployment rate increases, the amount of unemployment benefits paid from the Fund will increase, and an employer's contribution rate to the Fund will change.

The State of Indiana is self-insured for unemployment benefits and pays claims as they occur. Each agency is responsible for paying its unemployment claims. For FY 2001 the state paid $1.7 M in benefits: $913,794 from the General Fund and $810,984 from dedicated funds. The maximum impact to state agencies is about $123,000 for FY 2004 ($65,000 from the General Fund and $58,000 from dedicated funds) and $277,000 for FY 2005.

Worker' Compensation Benefits for Terrorist Attacks: The bill provides Worker's Compensation benefits to an employee in certain situations when the employee was traveling to work and the employee was killed or injured by the attack. The impact is unknown, but would probably be minimal.

Worker's Compensation Benefits for Failure to Use Safety Appliance: The bill provides for a 15% reduction in compensation to an employee whose injury or death was caused by the employee's intentional failure to use safety equipment or obey safety orders and regulations. The reduction under current law is 100%. The number of employees that might be affected and the impact is unknown. The bill would increase benefits to some employees.

Worker's Compensation Benefits Prior Injury: The Worker's Compensation Board does not have data on the number of people who suffer a later period of disability due to a prior injury that was compensated. The bill would increase the benefits by whatever salary adjustment the person had received since returning to work. The benefits would be subject to the maximum average weekly wage limitations.

Prejudgement Interest: The bill provides prejudgement interest based on a rate of 8% per year accruing from the date of filing of the application of adjustment of claim. The potential impact is unknown. The impact would depend on the amount of the claim and the processing time of a claim that goes to the Worker's Compensation Board or the courts. *Example:* If the claim was $600 per week and the claim took six months to be determined by the Board or a court, then the interest for the claim would be about $292.

Permanent Partial Impairment: This bill increases the rates for calculating permanent partial impairment compensation under worker's compensation and occupational disease law. The rates traditionally vary depending on the degree of impairment resulting from the injury. A different set of rates each year for two years are established by this bill (see Table A below). The rates are effective for injuries and disablement occurring after the date shown in each column.

Table A: Permanent Partial Impairment Rates

Permanent Partial Impairment Degrees of Injury	Current	Effective July 1, 2002	Effective July 1, 2003
1-10 Degrees	$1,300	$2,056	$2,406
11-35 Degrees	$1,500	$2,706	$3,081
36-50 Degrees	$2,400	$3,306	$3,781
Over 50 Degrees	$3,000	$3,906	$4,531

Average Weekly Wage: This bill increases the maximum average weekly wage used in the determination of compensation for temporary total disability, temporary partial disability, and total permanent disability (see Table B). Medical benefits are determined by the degree of impairment and are not based on the wage. The bill also increases the maximum compensation (exclusive of medical benefits) that may be paid for an injury under worker's compensation and occupational disease law. New maximum compensation limits are added for injuries occurring after July 1, 2001, and July 1, 2002 (see Table B below).

Table B: Average Weekly Wage Additions (for worker's compensation and occupational disease)

	FY 2002 (Current)	FY 2003 (Current)	FY 2004 (Proposed)
Maximum Weekly Wages	$822	$882	$948

Maximum Compensation: The bill increase the maximum compensation, exclusive of medical benefits from $294,000 for FY 2003 to the total of 125 weeks of temporary total disability plus 100 degrees of permanent partial disability. The new maximum is estimated to be $463,354 for FY 2004.

It is difficult to determine the potential cost of these changes. PL 31-2000 included similar types of adjustments, although the magnitude of the adjustments were different. An actuarial analysis of these changes is being performed by the National Council on Compensation Insurance (NCCI). The results are not currently available. The note will be updated when NCCI finishes their analysis. NCCI estimated the impact of the provisions of PL 31-2000 to be a 3.6% increase in premiums for FY 2001. According to the Indiana Compensation Rating Bureau, premiums increased by 1.5% for 2001 and decreased by 7.4% for 2002. Premiums for workers' compensation for 2000 were about $592 M.

The state is impacted as an employer. The state spent $3.1 M in FY 1997, $3.4 M in FY 1998, $3.7 M in FY 1999, $3.9 M in FY 2000, and $4.5 M in FY 2001 on worker's compensation payments. The additional state cost would probably be similar to the 2001 cost of about $600,000.

Explanation of State Revenues: *Worker's Compensation Benefits Prior Injury:* The bill provides for a credit to an employer for an assessment made to the Second Injury Fund for payment to an employee who was injured prior to January 1, 2003, and sustained a later period of disability entitling the employee to an increase in the average weekly wage. The impact would reduce revenue to the Second Injury Fund by an unknown amount.

Explanation of Local Expenditures: (Revised) *Child Labor:* The bill deletes the exemption from the rest break requirement for minors employed at camps operated by nonprofit entities. The impact of the bill on affected local entities is expected to be negligible.

The local impact for increase worker's compensation and unemployment benefits would be the increase payments as an employer.

Explanation of Local Revenues:

State Agencies Affected: Department of Labor, Department of Workforce Development, Worker's Compensation Board, and All State Agencies.

Local Agencies Affected: Camps and similar facilities operated by cities, towns, or counties.

Information Sources: